IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12284 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NR DAVE - Petitioner(s)

Versus

DIRECTOR OF AGRICULTURE & 3 - Respondent(s)

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Appearance :

MR IS SUPEHIA for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1 - 3.
MS REETA CHANDARANA, A.G.P.for Respondent No. 4

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 03/03/2006

ORAL JUDGMENT

1. In the present petition, short grievance of the petitioner is that on account of non verification of the pay of the petitioner, respondents are not making payment

of arrears as per order dated 03.08.2001 passed by the respondents themselves.

2. The petitioner earlier approached this Court by filing Special Civil Application No. 6499 of 1996. The Special Civil Application No. 6499 of 1996 was disposed of by order dated 14.10.1998. Majority of the grievances then voiced by the petitioner were satisfied. For the remaining the petitioner was allowed to make representation, and such representation was required to be decided within a period of three months of its receipt.

3. Pursuant to said order, respondents considered the representation of the petitioner for his correct pay fixation. By order dated 03.08.2001, it was provided that his pay will be revised as indicated in the said order. This was however, to be implemented after the concerned department verifies his pay. It is the case of the petitioner that only on account of non-verification of the details given by the competent authority with respect to pay of the petitioner in order dated 03.08.2001, that the petitioner is unable to receive the benefits thereof.

4. The respondents have appeared and filed affidavit in response to notice issued by this Court. The main stand as emerges from the reply statement, is that another petition being Special Civil Application No. 5006 of 1998 regarding the seniority of lower cadre of Junior Clerk is pending before this Court and until and unless, the seniority list is finalized, after this Court disposes of the pending petition, that the verification cannot be done. It is on this basis that learned Assistant Government Pleader argued before this Court that the request of the petitioner is not justified and until and unless, the seniority list is finalized, pay verification cannot be made.

5. I am unable to concur with the submissions made by learned Assistant Government Pleader. I do not see any direct bearing of the outcome of the said litigation on the issue of pay verification of the petitioner. Periodical pay is already received by the petitioner and what the petitioner is entitled to receive as per the revised order is indicated in the order dated 03.08.2001. The department has to verify the figures from the service record of the petitioner and on the basis of calculations as per rules. On the basis of prevailing position, pay

verification has to be done as to implement the said order. For these reasons, the respondents are directed to complete the verification of the pay of the petitioner and implement the said order by releasing arrears payable to the petitioner within a period of three months from the date of receipt of a copy of this order.

6. The learned Advocate for the petitioner agreed that in future, if there is any adverse effect on the seniority of the petitioner on account of outcome of Special Civil Application No. 5006 of 1998, the petitioner will not claim any equity on the basis of having received higher pay pursuant to this order. Subject to above clarification the petition is allowed and disposed of accordingly. Rule is made absolute.

[Akil Kureshi, J.]

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